

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

GLOBE TIRE DISTRIBUTORS, INC., a
Washington corporation,

Plaintiff,

v.

CARLISLE TRANSPORTATION PRODUCTS,
INC., a foreign corporation,

Defendant.

No. CV-13-3013-EFS

STIPULATED PROTECTIVE ORDER

1. Purposes And Limitations

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

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2. "Confidential" Material

"Confidential" material shall include the following documents and tangible things produced or otherwise exchanged: Carlisle Transportation Products internal pricing documents.

3. Scope

The protections conferred by this agreement cover not only confidential material (as defined above), but also (1) any information copied or extracted from confidential material; (2) all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony, conversations, or presentations by parties or their counsel that might reveal confidential material. However, the protections conferred by this agreement do not cover information that is in the public domain or becomes part of the public domain through trial or otherwise.

4. Access To And Use Of Confidential Material

4.1 Basic Principles. A receiving party may use confidential material that is disclosed or produced by another party or by a non-party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Confidential material may be disclosed only to the categories of persons and under the conditions described in this agreement. Confidential material must be stored and maintained by a receiving party at a location and in a secure manner that ensures that access is limited to the persons authorized under this agreement.

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1 4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
2 otherwise ordered by the court or permitted in writing by the
3 designating party, a receiving party may disclose any confidential
4 material only to:

5 (a) the receiving party's counsel of record in this action, as
6 well as employees of counsel to whom it is reasonably necessary to
7 disclose the information for this litigation;

8 (b) the officers, directors, and employees (including in house
9 counsel) of the receiving party to whom disclosure is reasonably
10 necessary for this litigation, unless the parties agree that a
11 particular document or material produced is for Attorney's Eyes Only
12 and is so designated;

13 (c) experts and consultants to whom disclosure is reasonably
14 necessary for this litigation and who have signed the "Acknowledgment
15 and Agreement to Be Bound" (Exhibit A);

16 (d) the court, court personnel, and court reporters and their
17 staff;

18 (e) copy or imaging services retained by counsel to assist in
19 the duplication of confidential material, provided that counsel for
20 the party retaining the copy or imaging service instructs the service
21 not to disclose any confidential material to third parties and to
22 immediately return all originals and copies of any confidential
23 material;

24 (f) during their depositions, witnesses in the action to whom
25 disclosure is reasonably necessary and who have signed the
26 "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless

1 otherwise agreed by the designating party or ordered by the court.
2 Pages of transcribed deposition testimony or exhibits to depositions
3 that reveal confidential material must be separately bound by the
4 court reporter and may not be disclosed to anyone except as permitted
5 under this agreement;

6 (g) the author or recipient of a document containing the
7 information or a custodian or other person who otherwise possessed or
8 knew the information.

9 4.3 Filing Confidential Material. Before filing confidential
10 material or discussing or referencing such material in court filings,
11 the filing party shall confer with the designating party to determine
12 whether the designating party will remove the confidential
13 designation, whether the document can be redacted, or whether a motion
14 to seal or stipulation and proposed order is warranted. Local Civil
15 Rule 5(g)¹ sets forth the procedures that must be followed and the
16 standards that will be applied when a party seeks permission from the
17 court to file material under seal.

18 5. Designating Protected Material

19 5.1 Exercise of Restraint and Care in Designating Material for
20 Protection. Each party or non-party that designates information or
21 items for protection under this agreement must take care to limit any
22 such designation to specific material that qualifies under the
23 appropriate standards. The designating party must designate for
24 protection only those parts of material, documents, items, or oral or
25 written communications that qualify, so that other portions of the

26 ¹ For the purposes of this Order, Local Civil Rule refers to the Local Rules
for the United States District Court for the Western District of Washington.

1 material, documents, items, or communications for which protection is
2 not warranted are not swept unjustifiably within the ambit of this
3 agreement.

4 Mass, indiscriminate, or routinized designations are prohibited.
5 Designations that are shown to be clearly unjustified or that have
6 been made for an improper purpose (e.g., to unnecessarily encumber or
7 delay the case development process or to impose unnecessary expenses
8 and burdens on other parties) expose the designating party to
9 sanctions.

10 If it comes to a designating party's attention that information
11 or items that it designated for protection do not qualify for
12 protection, the designating party must promptly notify all other
13 parties that it is withdrawing the mistaken designation.

14 5.2 Manner and Timing of Designations. Except as otherwise
15 provided in this agreement (see, e.g., second paragraph of section
16 5.2(a) below), or as otherwise stipulated or ordered, disclosure or
17 discovery material that qualifies for protection under this agreement
18 must be clearly so designated before or when the material is disclosed
19 or produced.

20 (a) Information in documentary form: (e.g., paper or electronic
21 documents and deposition exhibits, but excluding transcripts of
22 depositions or other pretrial or trial proceedings), the designating
23 party must affix the word "CONFIDENTIAL" to each page that contains
24 confidential material. If only a portion or portions of the material
25 on a page qualifies for protection, the producing party also must
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1 clearly identify the protected portion(s) (e.g., by making appropriate
2 markings in the margins).

3 (b) Testimony given in deposition or in other pretrial or trial
4 proceedings: the parties must identify on the record, during the
5 deposition, hearing, or other proceeding, all protected testimony,
6 without prejudice to their right to so designate other testimony after
7 reviewing the transcript. Any party or non-party may, within fifteen
8 days after receiving a deposition transcript, designate portions of
9 the transcript, or exhibits thereto, as confidential.

10 (c) Other tangible items: the producing party must affix in a
11 prominent place on the exterior of the container or containers in
12 which the information or item is stored the word "CONFIDENTIAL." If
13 only a portion or portions of the information or item warrant
14 protection, the producing party, to the extent practicable, shall
15 identify the protected portion(s).

16 5.3 Inadvertent Failures to Designate. If timely corrected, an
17 inadvertent failure to designate qualified information or items does
18 not, standing alone, waive the designating party's right to secure
19 protection under this agreement for such material. Upon timely
20 correction of a designation, the receiving party must make reasonable
21 efforts to ensure that the material is treated in accordance with the
22 provisions of this agreement.

23 6. Challenging Confidentiality Designations

24 6.1 Timing of Challenges. Any party or non-party may challenge
25 a designation of confidentiality at any time. Unless a prompt
26 challenge to a designating party's confidentiality designation is

1 necessary to avoid foreseeable, substantial unfairness, unnecessary
2 economic burdens, or a significant disruption or delay of the
3 litigation, a party does not waive its right to challenge a
4 confidentiality designation by electing not to mount a challenge
5 promptly after the original designation is disclosed.

6 6.2 Meet and Confer. The parties must make every attempt to
7 resolve any dispute regarding confidential designations without court
8 involvement. Any motion regarding confidential designations or for a
9 protective order must include a certification, in the motion or in a
10 declaration or affidavit, that the movant has engaged in a good faith
11 meet and confer conference with other affected parties in an effort to
12 resolve the dispute without court action. The certification must list
13 the date, manner, and participants to the conference. A good faith
14 effort to confer requires a face-to-face meeting or a telephone
15 conference.

16 6.3 Judicial Intervention. If the parties cannot resolve a
17 challenge without court intervention, the designating party may file
18 and serve a motion to retain confidentiality under Local Civil Rule 7
19 (and in compliance with Local Civil Rule 5(g), if applicable). The
20 burden of persuasion in any such motion shall be on the designating
21 party. Frivolous challenges, and those made for an improper purpose
22 (e.g., to harass or impose unnecessary expenses and burdens on other
23 parties) may expose the challenging party to sanctions. All parties
24 shall continue to maintain the material in question as confidential
25 until the court rules on the challenge.

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If a party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as "CONFIDENTIAL," that party must:

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and

8. Unauthorized Disclosure Of Protected Material

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IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to all counsel.

DATED this 28th day of January 2014.

s/ Edward F. Shea
EDWARD F. SHEA
Senior United States District Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name],
of _____ [print or type full address], declare under
penalty of perjury that I have read in its entirety and understand the
Stipulated Protective Order that was issued by the United States
District Court for the Eastern District of Washington on [date] in the
case of *Globe Tire Distributors, Inc. v. Carlisle Transportation
Products, Inc.*, Cause No. 13-3013 EFS. I agree to comply with and to
be bound by all the terms of this Stipulated Protective Order and I
understand and acknowledge that failure to so comply could expose me
to sanctions and punishment in the nature of contempt. I solemnly
promise that I will not disclose in any manner any information or item
that is subject to this Stipulated Protective Order to any person or
entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United
States District Court for the Eastern District of Washington for the
purpose of enforcing the terms of this Stipulated Protective Order,
even if such enforcement proceedings occur after termination of this
action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____